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NORTHERN DISTRICT OF CALIFORNIA

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name Williamson James R
(Last) (First) (Initial)Prisoner Number d34288Institutional Address P.O. Box 7500-d4107, Crescent City ca 95532UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAJames Williamson
(Enter the full name of plaintiff in this action.)

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3228

vs.

Robert Horel, Warden of
Pelican Bay PrisonCase No. _____
(To be provided by the clerk of court)PETITION FOR A WRIT
OF HABEAS CORPUS

(PR)

(Enter the full name of respondent(s) or jailor in this action)

Read Comments Carefully Before Filling InWhen and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainers), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example, Alameda County Superior Court, Oakland):

SACRAMENTO SUPERIOR SACRAMENTO CA
Court Location

- (b) Case number, if known 71053

- (c) Date and terms of sentence 7/6/86

- (d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes ☒ No ☐

Where?

Name of Institution: Pelican Bay State

Address: P.O. Box 1500-04107

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

NUMEROUS CRIMES RANGING FROM BURGLARY (PC 459) - RESISTANCE TO ROBBERY (PC 241/213.5), FALSE IMPRISONMENT (PC 236), AND DWI (PC 240.5/4) KIDNAP (PC 209(a)), ASSAULT (PC 220/261/286(d)/289(a)) & POSS. SEXUAL ABUSE (PC 261.5)

3. Did you have any of the following?

Arraignment: Yes ☒ No ☐

Preliminary Hearing: Yes ☒ No ☐

Motion to Suppress: ? Yes ☐ No ☐

4. How did you plead?

Guilty ☐ Not Guilty ☒ Nolo Contendere ☐

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have?

Jury ☒ Judge alone ☐ Judge alone on a transcript ☐

6. Did you testify at your trial? Yes ☒ No ☐

7. Did you have an attorney at the following proceedings:

(a) Arraignment* ? Yes ☒ No ☒ **Immediately following arraignment he was released, charges were missed & rearrested newly charged*

(b) Preliminary hearing Yes ☒ No ☐

(c) Time of plea* ? Yes ☐ No ☐

(d) Trial Yes ☒ No ☐

(e) Sentencing Yes ☒ No ☐

(f) Appeal Yes ☒ No ☐

(g) Other post-conviction proceeding Yes ☐ No ☒

8. Did you appeal your conviction? Yes ☐ No ☐

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes ☒ No ☐

Year: 1986-7 Result: affirmed

Supreme Court of California Yes ☒ No ☐

Year: 1988-9 Result: denied

Any other court Yes ☒ No ☐

Year: 1989-90 Result: denied

(b) If you appealed, were the grounds the same as those that you are raising in this

petition?

Yes ☒ No ☐

(c) Was there an opinion?

Yes ☐ No ☒

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes ☐ No ☒

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes ☒ No ☐

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: California Supreme Court

Type of Proceeding: Habeas Petition

Grounds raised (Be brief but specific):

a. Ineffective Assistance of Counsel

b. Jury Selection Discrimination

c. _____

d. _____

Result: denied Date of Result: ?

II. Name of Court: U.S. Northern District

Type of Proceeding: Habeas

Grounds raised (Be brief but specific): same as above listed in (a).

d. _____

- 5 -

need more space. Answer the same questions for each claim.

[Note: You must present ALL your claims in your first federal habeas petition. Subsequent petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant, 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

Claim One:

California's Sacramento County's 1985 Jury Selection Process discriminated against petitioner

Supporting Facts:

Under the recent U.S. Supreme Court Rulings*

1. Petitioner Williamson's trial Jury Selection occurred in 1989. (RT)

2. At that time, the California Sacramento County

Claim Two:

Jury Commissioners' selection Master List comprised of an underrepresenta-

Supporting Facts:

tion of African-american and other minorities;

3. This underrepresentation was demonstrated by the County's two Jury Trial Pools comprising

Claim Three:

of only a few Black and minorities (13) Total, in comparison to the Majority Whites.

Supporting Facts:

4. Trial Counsel objected and the Prosecutor responded;

5. The Court accept said response and denied Petitioners Wheeler/Batson motion. (see added

If any of these grounds was not previously presented to any other court, state briefly which

grounds were not presented and why:

Page 6(a)

(FACTS CONT.)

1 6/ The County Prosecutor had excluded the only few Black
2 prospective jurors out of the two jury panels
3 that was questioned during the selection process.
4 He also excluded the only ~~other~~ minorities.

5
6 7) Defense Counsel pointed these facts out during
7 the Jury/Batson hearing, arguing that to have
8 such an emotionally charged case presented
9 to an all-white jury, in which the Victims
10 was mainly white, would deprive Petition-
11 er, who is non-white of a fair trial. ^{1/}

12
13 8) In 1985, California's standard for establishing a
14 prima facie case of purposeful jury selection discrimi-
15 nation, requiring that it was 'more likely than not'
16 that the other party's motives for exclud-
17 ing otherwise qualified, cognizable racial groups
18 from the jury selection process, were based
19 on impermissible group bias;

20
21 9. Although petitioner appealed and sought post-
22 conviction habeas review on this matter, none
23 of the State or Federal Courts with this claim,
24 due to the United States Supreme Court's re-
25 cent ruling making the Trial Court's 1985 applied standard
26 to his case, resulting in the denial of his Wheeler Motion.

27 ~~I~~ It should be noted that throughout the trial, the prose-
28 cutor's statements made to both witnesses and jurors
caused the defense counsel to object as inflammatory,
ultimately influencing a conviction verdict.
page 6(a)

Name James Williamson
 Address P.O. Box 7500 / d4-107
Crescent City, Ca
95532
 CDC or ID Number D34288

CONFIRM copy
 SUPREME COURT
FILED

JUN 3 1 2006

Frederick K. Ohlrich Clerk

IN THE SUPREME COURT

DEPUTY

FOR THE STATE OF CALIFORNIA

(Court)

PETITION FOR WRIT OF HABEAS CORPUS

S145447

No.

(To be supplied by the Clerk of the Court)

James Williamson
 Petitioner
 vs.
RICHARD KIRKLAND
 Respondent

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

PELICAN BAY S.H.U.
 PETITION FOR WRIT OF HABEAS CORPUS
UNIT D-4

(Continuation From page 3(A): FACTS in support of Ground 2)

UNIT D-4

state's jury selection process, was at odds with the prima facie inquiry mandated under the equal protection principles of the Fourteenth Amendment, Batson v. Kentucky (Ibid.) (Johnson v. California (2005) 125 S.Ct. 2410; 162 L.Ed 2d 129.)

7. The Court held that a prima facie case of race discrimination could be made out by offering a wide variety of evidence, so long as the sum of the proffered facts gave rise to an inference of discriminatory purpose, (Id.) as the case law provided no support for the state's "more likely than not" standard relied upon by the trial Court in petitioners case. (RT 1049-50) Accordingly, not even Batson, on its terms, provide no support for such a state standard, (Johnson, supra), warranting habeas review by higher Court in consideration of granting an evidentiary hearing and, habeas relief, reversing the conviction and judgment.

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PELICAN BAY S.H.U.

(Continuation From page 3 "FACTS"/GROUND 1)

UNIT D-4

3. During the Course of the trial Counsel sought to have the Trial Court to quash the Jury Venire panels, during a relative challenge of the prosecutors exercise of peremptory Challenges to systematically and discriminately remove all of the Black jurors from his trial jury. (RT 1014-1050)
4. However, the Court rejected defense Counsel's argument to quash the States venire panels (on grounds that it systematically excludes African-Americans and other minorities, and did not reflect a fair representation of cognizable ethnic groups in the County of Sacramento in its compiled Jury Selection Master Jury Roster compiled listing), in which the Court did not find that counsel established a prima facie showing in challenging the States Venire Jury selection process (*Id.*) Instead, the Court only required the prosecutor to explain his removal of all the few Blacks from the actual trial jury (*Id.*) which it accepted and denied that aspect of the challenge. (*Id.* 1049-50)
5. Petitioner alleges that the Trial Court's refusal to quash the discriminatory jury venire pools by finding that petitioner's trial counsel failed to establish a prima facie showing under the States "more likely than not" standard, contravened governing Constitutional mandates, as clearly set forth in the recent U.S. Supreme Court rulings of *Johnson v. California*. (see (b) authorities on page 4).
6. On June 13, 2005, the United States Supreme Court held that California's "more likely than not" standard for establishing a prima facie case of group bias in challenges to the alleged systematic exclusion of cognizable racial groups during the

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UNIT D-4

6. GROUNDS FOR RELIEF

Ground 1. State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

PETITIONERS 1985 CONVICTION BY AN UNCONSTITUTIONALLY-SELECTED ALL WHITE JURY, WHEREAS THE STATES "JURY-SELECTION" PROCESS RESULT-ED IN THE SYSTEMATIC DISCRIMINATORY EXCLUSION, REMOVAL OF ALL AFRICAN-AMERICAN WOMEN AND MEN JURORS UNDER THE STATES "MORE LIKELY THAN NOT" STANDARD VIOLATED THE U.S. SUPREME COURTS 2005 RULING UNDER JAY JOHNSON V. CALIFORNIA, ^{1/}

a. Supporting facts: and Miller et v. Dretke. 1/

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

1. Petitioner James Williamson, who suffers from a debilitating eye disease, aid with the aid of a fellow inmate. Untrained and unskilled in the practice of law, brings this petition for habeas relief, challenging the State's applied "more likely than not" standard to his 1985 claims of its systematic, discriminatory exclusion and removal of all African-American male and female jurors, Warranting habeas review and relief under the recent U.S. Supreme Court ruling in Johnson and Miller et; (see (b) authorities below)
2. On October 4, 1985, the state's Sacramento County Jury Commis-sioner systematically composed (2) two Jury Venire panels of ninety-eight (98) prospective jurors from its official Jury selec-tion masters list. Of those jurors, eighty-five were white, and thirteen (13) were minority, including seven (7) Blacks. (RT 1014-1016)

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

1. JOHNSON V. California, 543 U.S. 1255, Ct. 2410, 162 L.Ed 2d 129 (2005); Miller - E1 v. Dretke (2005) 545 U.S. 162 L.Ed 2d 196, 125 S.Ct. 2317; U.S. CONST. Amend. VI - RIGHT TO TRIAL BY IMPARTIAL JURY; Cal. Constitution Art. I, § 17(a), 14, 15, 24 & Art. II § 2; U.S.C.A. XIV. (See Wells v. Murray, 831 F.2d 468, 472 (1987) BATSON V. KENTUCKY (1986) 476 U.S. 79, 90 L.Ed 2d 69, 106 S.Ct. 1712; People v. Wheeler 22 Cal. 3d 258, 148 Cal. Rptr. 890 (1978) Castaneda v. Partida. 430 U.S. 482; U.S. v. Cannady 54 F.3d 544, 548 (9th Cir.)

TRIAL COUNSEL'S FAILURE TO COMPETENTLY AND EFFECTIVELY CHALLENGE THE STATE'S SYSTEMATIC EXCLUSION OF ALL AFRICAN-AMERICAN PROSPECTIVE JURORS FROM THE STATE'S JURY VENIRE POOL AND PETITIONER'S TRIAL JURY DEPRIVED HIM OF THE EFFECTIVE ASSISTANCE OF COUNSEL, A FAIR AND IMPARTIAL TRIAL AND DUE PROCESS.
(SEE ALSO GROUND III, *infra*)

a. Supporting facts:

1. As alleged above and hereby incorporated herein by reference, to the extent by which the Trial Court allotted, a partial record was established, setting forth a claim by appointed Trial Counsel, (urged by Petitioner) that the State's Jury selection process systematic excluded African-Americans from the two venire pools of the Jury Commissioners List for petitioner's Trial. (RT 1014-1016)
 2. The Trial Court found that Defense Counsel's claim—that the two jury venire panels (comprising of eighty-five (85) whites, and Thirteen (13) minorities including only seven (7) African-Americans" provided by the States Jury Commissioner) did not provide Petitioner a fair Trial by a Jury of his peers from a cross section representation of his and other cognizable racial, ethnic groups (Ibid.)—"did not establish a prima facie showing" (Id. 1044-50) under its "more likely than not" standard.
 3. Petitioner alleges that trial Counsel's education, training and skill in the practice of law as required by the ABA/CBA profession, mandated that Counsel have been more effective in challenging the State's "more likely than not" standard in his effort to establish a prima facie showing. (Ibid. see Ground I, *supra*), as recently held in *Johnson v. California*, and *Miller v. Dretke*, (Ibid., (b) authorities)
- b. Supporting cases, rules, or other authority.
- U.S. CA. VI & XIV ; Cal. CONSTITUTION Article I, §§ 7(a), 14 & 15; ART. II, § 12
- People v. Pope* (1979) 23 Cal. 412
- Strickland v. Washington* (1984) 466 U.S. 668

PELICAN BAY S.H.U.

UNIT D-4

1 * List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 Johnson v. California, 125 S.Ct. 2410, 162 L.Ed.2d (2005)
5 Miller-el v. Dretke (2005) 545 U.S. 1, 162 L.
6 Ed 2d 196, 125 S.Ct. 2317

7 Do you have an attorney for this petition? Yes _____ No ☒

8 If you do, give the name and address of your attorney:

9 _____
10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on 6/14/07
14 Date

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Signature of Petitioner William J. James

(Rev. 6/02)

S145447

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re JAMES WILLIAMSON on Habeas Corpus

Petition for writ of habeas corpus is DENIED. (See *People v. Duvall*
(1995) 9 Cal.4th 464, 474.)

SUPREME COURT
FILED

FEB - 7 2007

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice